

## Chapter 3 – PROGRAM ADMINISTRATION

### (Section 1) Background

The responsibilities of the ARB include management of program funds and program oversight. This chapter is divided into discrete sections that describe specific administrative requirements that the ARB, local air districts, and interested parties must follow to ensure the Carl Moyer Program achieves SIP-creditable emission reductions. Air districts may choose to require more stringent administrative procedures in implementing their local program.

These 2011 Guidelines must be used for all projects funded with fiscal year 2011-2012 (Carl Moyer Program Year 14) and subsequent years' funds.

For projects funded using fiscal year 2010-2011 funds (Year 13), or any previously awarded funds, a district has the option of using either the 2008 Guidelines (and relevant Program Advisories and Mail-Outs) or using these 2011 Guidelines. Districts may not pick and choose requirements from both sets of Guidelines. The 2011 Guidelines may be utilized after the Board approval date and would apply to projects for which contracts have been fully executed after the Board approval date. If a district chooses to begin applying the 2011 Guidelines to Year 13 projects, it must continue to apply only the 2011 Guidelines to all subsequent Year 13 projects.

Availability of Goods Movement Emission Reduction Program funds (Proposition 1B) for certain project types may restrict or prohibit the use of Carl Moyer Program funds. Such restrictions are described in more detail in the applicable source category chapters – “Chapter 4: On-Road Heavy-Duty Vehicles”, “Chapter 5: On-Road Heavy-Duty Vehicles Fleet Modernization”, “Chapter 11: Locomotives” and “Chapter 12: Marine Vessels.”

### (Section 2) Definitions

**Administrative Funds:** State funds allocated to program support and outreach costs directly associated with implementing the program.

**Budget Authority:** Is the authority conferred by law to incur financial obligations that will result in immediate or future outlays of government funds. Budget authority includes ARB's awarding of Carl Moyer Program funds to local air districts and the air districts contract authority to commit, expend, and liquidate funds.

**Carl Moyer Program Funds:** State funds awarded by ARB to local air districts to implement the Carl Moyer Program. These awarded funds include administrative funds and project funds, and any interest earned on the awarded funds. Carl Moyer Program funds are subject to the requirements of Health & Safety Code § 44287(k). Local funds that are under the air district's budget authority may also qualify as Carl Moyer Program funds, however, certain limitations apply (see Health & Safety Code § 44287(j)).

**Case by Case Determination:** A prescribed process in which local air districts may request Carl Moyer Program staff to review a project or program element that varies from these 2011 Carl Moyer Program Guidelines. See Section 28 for additional information.

**Clean Air Reporting Log (CARL):** An on-line database, administered by ARB, to assist local air districts with tracking and reporting of projects for purposes of implementing the Carl Moyer Program.

**Commitment of Funds:** A program milestone in which Carl Moyer Program funds have been designated or applied towards an eligible project approved by the district Board, district Air Pollution Control Officer (APCO), or other delegated authority. See Section 15 for additional information.

**Earned Interest:** Is interest earnings generated from Carl Moyer Program funds that were held by the air district in interest-bearing accounts. The interest earned from these funds must be spent on eligible Carl Moyer Program projects. See section 13 for additional information.

**Executed Contract:** A legally binding contract signed by the local air district Air Pollution Control Officer (APCO), or other air district designated representative, and the grantee to fund an eligible engine, equipment, or vehicle project that will reduce covered emissions. An executed contract is a program milestone in which parties agree to meet the obligations within the contract by a specified date.

**Expend:** A program milestone in which the air district has applied a full or partial payment of Carl Moyer Program funds towards a project invoice of an eligible Carl Moyer Program project. See Section 17 for additional information.

**Fiduciary Control:** In equity, fiduciary control suggests obligations that not only include duties of good faith and loyalty, but also include duties of skill and competence in managing the people's interests. Pertaining to the Carl Moyer Program, the ARB and local air districts will act in accordance with best faith efforts and practices to implement this program and its associated funds in the most efficient and cost-effective manner possible. See Budget Authority.

**Funding Year:** The funding year begins when the air district signs the ARB grant award and authorization form (typically in the Fall season) until the following date of June 30<sup>th</sup>. The funding year period may be less than 12 months.

**Funding Year Adjustment:** An addition or subtraction to an air district's project and/or administrative fund amounts in one funding year to account for changes (e.g., recaptured funds, errors) in liquidated funds in an earlier funding year.

**Liquidate:** Liquidated funds are those funds for which a district has completely reimbursed an applicant for a valid and eligible project invoice. A contract is considered liquidated only when a check or checks are issued for the full contract amount and all invoices have been fully paid. Air districts exercising withhold allowances in their contracts may exclude these amounts for purposes of liquidation.

**Match Funds:** Funds under an air districts budget authority that will be applied towards eligible projects in accordance with the matching requirements of the program. See Health & Safety Code § 44287(e).

**Program Milestone:** One of several actions (e.g. expenditure) that signify progress or completion of a Carl Moyer Program project towards meeting statutory requirements.

**Project Funds:** State funds allocated towards eligible project costs (incremental costs) directly associated with the reduction of covered emissions from covered sources.

**Public Financial Assistance:**

**Reallocation:** ARB process for allocating mitigation funds and/or returned funds to eligible districts. See Section 23 for additional information.

**Recaptured Funds:** Funds that return to the district from a completed project and that must now be expended in a newer funding year.

**Returned Funds:** Funds that are not expended by a funding year expenditure deadline or funds that are associated with an ARB audit mitigation measure, that must be returned to ARB for reallocation.

**Rural District Assistance Program:** An element of the Carl Moyer Program in which districts pool their project funds to streamline project outreach, solicitation, and review.

**Target:** Targets assist in cumulative progress tracking of funds. Targets take into account funds that include regular Carl Moyer Program funds, Multi-district funds, Rural District Assistance Program funds, Carl Moyer voucher program funds, required match funds, interest funds, reallocated funds, recaptured funds, and other relevant funds associated with the Carl Moyer Program.

### **(Section 3) Timelines**

The timeline for each funding cycle is provided in Table 1. The timeline for a reallocation funding cycle is provided in Table 2. The process and minimum requirements for distribution of these funds from ARB to air districts is described in this chapter.

**Table 1: Timeline for Initial Allocation of Funds**

<b>Date</b>	<b>Action</b>
Mid-September	ARB sends application packet to air districts.
Mid-November	Districts apply to ARB for funds
Early January	ARB notifies districts of final awards
January - June	Districts receive grant awards
April 30	Deadline for districts to accept or decline funds
June 30 of Following Year	Target date for contracts to be executed
June 30 of Second Year	Funds must be expended

**Table 2: Timeline (Deadline) for Reallocation of Funds**

<b>Date</b>	<b>Action</b>
August 29	Report and return unexpended funds to ARB
September 28	ARB notifies districts of available returned funds
November 27	ARB allocates returned funds to eligible districts
December 31	Deadline for districts to accept or decline reallocated funds
June 30	Reallocated funds must be expended

#### **(Section 4) ARB Solicitation of District Applications**

- (a) Typically in the fall of each year, ARB shall send a solicitation letter to each district's Air Pollution Control Officer (APCO) to notify the district that Carl Moyer Program funding is available and to provide the application that districts need to apply for program funds. The solicitation letter shall provide each district's tentative funding award and tentative match funding requirement. ARB determines the tentative awards for each year's grants or reallocation of returned funds (when necessary) in accordance with the Health and Safety Code (HSC) §44299.2. (moved from Section 3)
- (b) If returned funds are available after each expenditure deadline, ARB shall send a solicitation letter to each district's APCO to notify the district that such funds are available and to provide the application and instructions that districts need to apply for the funds.

#### **(Section 5) District Applications for Program Funding**

- (a) Districts must submit a completed application packet within 60 calendar days from the date of the solicitation letter. The completed application packet must include the following documents:

- (1) Completed Application: Submission of the original form signed by the district's APCO. Districts requesting the minimum \$200,000 allocation may opt to direct their allocation to the Rural District Assistance Program.
- (2) Match Fund Commitment: Districts must specify the source and amount of local match funding on the application. Districts requesting more than their tentative funding allocation must demonstrate that sufficient match funds are available to cover any additional funds requested. Refer to Section 10 to determine the approximate required match fund amount if requesting additional funds. Districts requesting no more than the minimum allocation will be exempted from the match requirement. Districts may account for up to 15 percent of their match requirement with in-kind contributions. Additional information regarding allowable sources of match funding can be found in Sections 10 and 11 of this chapter.
- (3) District Board Resolution: Submission of the district Governing Board resolution or minute order that commits the district to participate in the Carl Moyer Program, comply with the Carl Moyer Program requirements, and authorizes the district to accept funds from ARB or to have such funds placed into the Rural District Assistance Program. For districts with a match requirement, the board resolution shall authorize the APCO to supply sufficient funding to meet the match requirement. If districts have previously obtained a board resolution that authorizes the district to implement the Carl Moyer Program for multiple years, the district must state the date of the resolution in the application.
- (4) Policies and Procedures Manual: In order to be eligible for continued funding, districts must submit to ARB a copy of their current Carl Moyer Program Policies and Procedures Manual for approval. If previous approval has been provided by Carl Moyer Program staff, the district must submit a statement, signed by a district representative, confirming that an updated version of their Policies and Procedures Manual is maintained at the district office. The manual must describe the district's policies, procedures, and organizational structure for implementing the Carl Moyer Program. The Policies and Procedures Manual, at a minimum, must include:
  - (A) Program structure and organization, including coordination with ARB
  - (B) Solicitation of funds from ARB
  - (C) Project solicitation, evaluation, and selection (including schedule for program implementation)
  - (D) Environmental justice/at-risk communities (if applicable)
  - (E) State and match fund obligation and expenditure
  - (F) Fiscal practices and procedures
  - (G) Light duty vehicle/fleet modernization projects (if applicable)

- (H) Pre- and post-inspections
  - (I) Project reports
  - (J) Contract components and contracting with applicants
  - (K) Invoice review, approval, and payment protocols
  - (L) District audits of projects
  - (M) Details regarding program components identified in the following sections of this chapter: 13(d), 14(c), 27(l), 30(b), 30(e), 30(f), 31(a), 31(c), 32(f), 33(c), and 35(c).
- (b) Any district whose latest required Yearly Report does not demonstrate full expenditure of program funds within two years must return the expenditure shortfall within 60 calendar days after the June 30<sup>th</sup> expenditure deadline, as required by HSC § 44287(k). ARB shall reallocate returned funds to air districts per HSC § 44299.2(c). Districts may apply for any amount of the available funds. To be considered for funding, a district must apply for the funds and the application must demonstrate the district's ability to expend the amount requested on eligible Carl Moyer Program projects by the following June 30.
- (c) ARB reserves the right to direct up to ten percent of each year's State Carl Moyer Program funds to projects that operate or impact air quality in multiple air districts (pursuant to HSC § 44286).

#### **(Section 6) ARB Review and Approval of District Funding Applications**

- (a) ARB shall review an application immediately upon receipt and, if necessary, provide the air district with a written explanation of what is missing from the application within ten working (business) days of its receipt. Complete applications that fulfill all criteria shall be approved no later than 60 business days after receipt (see HSC § 44287(n)).
- (b) On a case-by-case basis, ARB may elect to approve an application that is missing a particular item and make the submittal of that item a stipulation of the Grant Agreement. For example, sometimes air district staff is unable to obtain a board resolution or minute order before the application deadline. In such a case, ARB may allow a board resolution or minute order to be submitted with the signed Grant Agreement or prior to the district's initial disbursement.
- (c) ARB shall review a district's Policies and Procedures Manual for minimum elements listed in Section 5(a)(4) of this chapter and within 30 days of its receipt either approve the manual or describe what additional information or clarification is needed. ARB approval of district Policies and Procedures Manual shall be provided by e-mail or in other written format. Once approved, air districts must submit a statement that an updated version of their Policies and Procedures Manual is maintained on-site. In this case, an annual submittal of their Policies and Procedures Manual with the application for funding is no longer required.

ARB approval of a district's Policies and Procedures Manual denotes approval of the district's policies and procedures as written. A district's policies and procedures as implemented can only be fully evaluated during the audit process.

- (d) ARB shall follow the formula identified in HSC §44299.2(a) to redistribute funds declined by air districts and funds reallocated due to district non-expenditure (see section 23 of this chapter).

### **(Section 7) Final Grant Awards**

- (a) Once district applications have been approved, ARB shall determine the final grant awards and corresponding amounts of required match funding.
- (b) ARB shall prepare and submit two signed original copies of the Grant Award and Authorization Forms to qualifying districts.
- (c) The APCO must sign both original copies of the Grant Award and Authorization Form. The districts retain one of the originally signed forms for their files and return the other originally signed form to ARB.
- (d) The deadline for acceptance of an annual grant award shall be specified in the award letter each year. The deadline for acceptance of a reallocation grant award shall be January 31 of each year.
- (e) Districts have until June 30<sup>th</sup> on the second calendar year after funds are accepted from ARB to expend the allocation grant award. Districts have until the June 30 after returned funds are accepted from ARB to expend the reallocation grant award. See HSC § 44299.2(c).

### **(Section 8) Fund Disbursements to Air Districts**

- (a) In order to receive a disbursement, each district must submit a Grant Disbursement Request to ARB. The Grant Disbursement Request form must be signed by a party authorized and designated by the district Governing Board.
- (b) If there are stipulations on the Grant Award and Authorization form, all stipulations must be met prior to receiving the initial disbursement request.
- (c) Protocol and minimum requirements for air districts to receive disbursements are as follows:
  - (1) Initial Disbursement: A district may request an initial disbursement which includes all of its administrative funds and up to ten percent of its project funds, or \$200,000, whichever is greater. A district has the option to

request additional project funds to be included in the initial disbursement if they can meet and demonstrate all the criteria described in subsection (2) - Additional Disbursement.

- (2) Additional Disbursements: Districts may request any remaining portion of their project funds once the following criteria have been met and submitted to ARB:
  - (A) Preceding Yearly Report demonstrates on-time expenditures consistent with Health & Safety Code § 44287(k)  
- or -  
The unexpended funds identified in the preceding Yearly Report have been received by ARB.
  - (B) Program staff submission of document(s) listing eligible projects in an amount equal to the disbursement request, and confirming the district's commitment of project funds
  - (C) Program staff certification that an executed contract will not be entered prior to project being approved by the APCO or Board approved designee (for those districts not requiring Board action) or district Board (for those districts requiring Board approval of projects) as consistent with their Policies and Procedures Manual.
- (d) Districts will receive one check for both program administration and project funds, but shall account for the administration and project funds separately.
- (e) Due to the compressed timeframe for expending reallocated funds, districts may receive the full reallocation grant award once the following has been submitted and approved by ARB:
  - (1) An original signed copy of the grant award
  - (2) A completed disbursement request form

**(Section 9) AB 923 - \$2 Motor Vehicle Fee**

- (a) State law allows districts to collect an additional \$2 motor vehicle registration surcharge (\$2 MV Fee), which must be used to fund the following (HSC § 44223 and § 44229(b)):
  - (1) Projects eligible for grants under the Carl Moyer Program
  - (2) The Agricultural Assistance Program



- (3) Purchase of new school buses pursuant to the Lower-Emission School Bus Program
- (4) An accelerated vehicle retirement or repair program that is adopted by ARB.
- (b) \$2 MV Fees used to meet the Carl Moyer Program match fund requirement are subject to the same eligibility, reporting, and auditing requirements as State-provided Carl Moyer Program funds. \$2 MV Fee funds used to meet the match requirement are not required to be expended within two years from the date of their collection. However, districts must expend sufficient match funds to meet the obligations for the Carl Moyer Program funds received each year.
- (c) Reporting and oversight of the \$2 MV Fee depends upon whether the fee is used to meet the Carl Moyer Program’s match requirement and whether the district takes SIP credit for \$2 MV Fee projects. Table 3 summarizes the various scenarios for treatment of \$2 MV Fee funds and projects. Sections 20 and 22(b) of this chapter, respectively, describe reporting and oversight on the \$2 MV Fee in more detail.

**Table 3: Summary of \$2 MV Fee Requirements and Oversight**

Requirements/ Oversight	\$2 MV Fee Used as Match	\$2 MV Fee Used for SIP Credit	\$2 MV Fee Not Match/ not SIP
Expenditure of funds within two years	(1)	--	--
Meet full and complete Carl Moyer Program Guideline criteria	√	--	--
Subject to ARB Audit	√	--	--
Subject to ARB project eligibility evaluation (e.g., cost-effective and surplus)	√	√	√
Fiscal reporting to ARB (list total funds expended in four basic categories) <sup>2</sup>	√	√	√
Detailed reporting to ARB (project specifics submitted in current database) <sup>2</sup>	√	√	--

1 - Sufficient funds must be expended, regardless of their year of origin or source, to provide the required match by that year’s expenditure timeline. For example, for Year 9, districts must expend their match by June 30, 2009. When those funds were received is not a factor in determining this deadline.

2 – See Section 20 of this chapter for details.

**(Section 10) Match Fund Formula**

- (a) HSC § 44287 requires districts participating in the Carl Moyer Program to provide match funding. Air Districts implementing the Carl Moyer Program must commit match funds equaling 15 percent of the State funds received.
- (b) A district receiving the minimum grant award of \$200,000 is exempt from this match requirement.

**(Section 11) Match Funds Sources**

- (a) District match funds must be under the air district's budget authority or fiduciary control, with the exception of port funds described in (f) below (see HSC § 44287(e)). Funds allocated to an air district by the State of California, such as Lower Emission School Bus Program Funds or State bond funds, may not be used as Carl Moyer Program match funding. Districts may meet their matching fund requirement on an overall program basis rather than a project-by-project basis.
- (b) An air district may include match funds spent on or after February 25, 1999 that would have qualified as matching funds but were not previously claimed as matching funds (see HSC § 44287(h)).
- (c) Motor vehicle registration surcharge fees (MV Fees), including the AB 2766 \$4 MV Fee, and the AB 923 \$2 MV Fee, may be used as match funds subject to the following provisions:
  - (1) In order to qualify as match funds, MV Fees must fund motor vehicle projects that meet the Carl Moyer Program criteria. MV Fees may not be used as match funds on projects involving stationary or portable engines, locomotives, or marine vessels (HSC § 44287(j)). Table 4 identifies what source categories are considered motor vehicles for the purposes of match funding.

**Table 4: Eligibility of Motor Vehicle Registration Surcharge Fee Projects as District Match**

<b>Eligible</b>	<b>Not Eligible</b>
Automobiles	Locomotives
Trucks	Marine vessels
Buses*	Stationary or portable agricultural engines
Self-propelled harvesters	
Road graders	Aircraft
Earth movers	Refrigeration units
Tractors	Auxiliary generators
Forklifts	Welding machines
Sweepers	Pleasure craft
Rubber Tired Gantry Cranes	Non-Mobile Cranes

\* Lower Emission School Bus Program projects must meet Carl Moyer Program cost-effectiveness and other criteria to count as match.

Note that statute allows the \$2 MV Fee to be used to fund any eligible Carl Moyer Program project – both motor vehicle and non-motor vehicle projects (HSC § 44229(b)(1)). However, only motor vehicle projects funded with MV Fees may be counted as match projects.

- (2) MV Fees that pay for incremental fuel costs consistent with Sections 12(a)(2) and (3) of this chapter may be used as match funds. Fuel must be dedicated to a source category potentially eligible for Carl Moyer Program funds (such as heavy-duty trucks).
  - (3) MV Fees that pay for accelerated light-duty vehicle retirement and repair programs that meet all Carl Moyer program criteria may be used as match funds.
  - (4) MV Fees used to fund Lower Emission School Bus Program projects may count towards the district match requirement if they meet the Carl Moyer Program requirements and the current cost-effectiveness threshold. All air district or state incentive funds used to help pay for a school bus project must be included in this cost-effectiveness calculation.
  - (5) \$2 MV Fees used to fund Agricultural Assistance Program projects may not be counted towards the Carl Moyer Program match requirement (HSC § 44287(j)).
- (d) Other (non-MV Fee) locally-generated funds may be counted as match if they fund projects that meet all Carl Moyer Program requirements and criteria, including those project types described in Sections 12(a)(1), (2), and (3).
  - (e) Districts may use federal funds as Carl Moyer Program match if written confirmation is received from the administering federal agency (for example, the

U.S. Environmental Protection Agency) that 1) the administering agency has no objection to the district using those funds as match, and 2) the emission benefits obtained from those funds will not be used by the administering agency in a State Implementation Plan. The district must also ensure that it will not use such funds as match for any other program, and that the use of the funds as Carl Moyer Program match does not conflict with any State or local requirements tied to the funds. Also, like all match funds, such funds must meet all Carl Moyer Program Guideline requirements. If this option is used, supporting documentation must be included in all relevant project files.

- (f) Interest earned on Carl Moyer Program funds received from ARB shall not be used for match funding.
- (g) Funding provided by a port authority for a qualifying project or for infrastructure that serves a qualifying project may count toward the district's Carl Moyer Program matching fund requirement. However, no more than 30 percent of a district's match obligation may come from a port authority. Port authorities may participate through projects involving their own equipment, or by soliciting port tenants to apply for project funding.
- (h) Private companies are not allowed to provide match funding to satisfy the districts' match funding obligation.

## **(Section 12) Eligible Types of Match Projects**

- (a) The types of projects that can be funded to meet the match funding requirement include:
  - (1) Carl Moyer Program Projects: Match funds may be used to pay for any project that meets all Carl Moyer Program criteria and all other statutory limitations on the funds such as those specified in Section 11(c) of this chapter.
  - (2) Incremental Fuel Cost: Match funds may be used to pay for the incremental cost of liquid or gaseous fuel and electricity, other than standard gasoline or diesel, which serves a Carl Moyer Program-eligible source category (such as heavy-duty trucks).
  - (3) Infrastructure Projects: Match funds may be used for electric and alternative fuel infrastructure projects that serve specific Carl Moyer Program qualifying project categories.

Motor vehicle fees authorized under Assembly Bill (AB) 2766 and AB 923 can be used as match to fund infrastructure projects that serve Carl Moyer Program

eligible motor vehicle project categories. Table 3 in Section 11 lists eligible (and ineligible) motor vehicle project types.

- (4) In-Kind Contributions: Up to 15 percent of a district's match requirement may be fulfilled through in-kind contributions. Air districts may use any funds under their budget authority -- except for administrative funds and interest earned on Carl Moyer Program funds -- to cover their in-kind contribution. When using local air district funds for in-kind match, districts must follow all relevant statute, guidelines, and other legal requirements for expending such funds. In-kind contributions have the same expenditure timeline as match funds. District in-kind match funds must be spent on program administration and outreach as described in Section 14, and meet the documentation requirements identified in Section 14.
- (b) Air Districts found by ARB to have funded ineligible projects shall substitute eligible projects equal to the amount found ineligible or return the ineligible amount to the ARB as mitigation or returned funds.

### **(Section 13) Earned Interest**

Interest earned on Carl Moyer Program funds must be reported to ARB. The interest earned may either be used to fund projects that meet the current Carl Moyer Program Guidelines (including any revisions in effect at the time of contract execution) or must be returned to ARB.

- (a) Calculation of Earned Interest. All districts must maintain accounting records (e.g. general ledger) that track interest earned and expended on Carl Moyer Program funds.
  - (1) If a district maintains its Carl Moyer Program funds in a non-segregated account, the district must maintain accounting records that track the revenue, expenditures, and interest earned by the Carl Moyer Program funds separately from other district programs.
  - (2) The calculation of interest must be based on an average daily balance or some other reasonable and demonstrable method of allocating the proceeds from the fund back into the program.
  - (3) Each district's methodology for calculating Carl Moyer Program interest must be consistent with how it calculates earned interest for its other fiscal programs.
- (b) Expenditures for Carl Moyer Program Projects. All projects funded with interest must meet all current Carl Moyer Program Guidelines, including any revisions in effect at the time of contract execution.

- (c) Expenditures for Program Administration. A district can use up to five percent of earned interest on administrative expenses if the district has one million or more inhabitants and up to ten percent of earned interest on administrative expenses if the district has less than one million inhabitants.
- (d) Reporting Requirements. Each district shall report interest earned in Yearly Reports to ARB using the format provided by ARB.
  - (1) Districts must report on projects funded with earned interest the same way districts report on Carl Moyer Program-funded projects (i.e., by entering projects in the CARL and in their Yearly Reports). Any interest-funded project not reported to ARB prior to the 2010 Yearly Report must be reported via CARL. For the 2010 Yearly Report, interest-funded projects that have already been reported to ARB via spreadsheet do not need to be reported again via CARL. For such projects, districts must provide a list that includes project name, project number, amount of interest liquidated, and date (year) liquidated.
  - (2) Documentation of earned interest generation must be retained, at a minimum, until the funding year liquidation deadline of the target with which it is associated [e.g., for interest earned from 6/30/2010 – 6/30/2011 and added to the Year 14 target, the funding year liquidation deadline is June 30, 2016]. Documentation of projects funded with interest (i.e., the project files) must be retained for a minimum of two years after the end of the contract term or a minimum of three years after final payment, whichever is later.
  - (3) In the 2010 Yearly Report, for the period of July 1, 1998 through June 30, 2010, districts must report interest earned on Carl Moyer Program, Rural District Assistance Program, and Multidistrict fund balances by listing the following:
    - (A) Earned interest that was liquidated on Carl Moyer Program projects.
    - (B) Earned interest that was expended on Carl Moyer Program administration.
    - (C) Balance of earned interest held by the district on June 30, 2010, including those interest funds committed to projects but not yet liquidated.
  - (4) For the balance of earned interest held on June 30, 2010 [13(d)(3)(C) above], a district will have the following options:
    - (A) Spending that amount on Carl Moyer Program projects and administration [consistent with 13(c) above] on the same schedule

and with the same requirements as the district's Year 13 Carl Moyer Program grant award. For reporting purposes, such interest funds will be added to other Carl Moyer Program funds and will thus be counted in the cumulative contract execution and fund expenditure targets tracked by CARL. The targets will be adjusted to take into account interest used to pay for administrative costs. Projects funded by such interest will be counted toward meeting those targets.

-or-

- (B) Alternatively, such unspent interest may be returned to the ARB by October 31, 2010.

-or-

- (C) A combination of (A) and (B).

- (5) Beginning with the 2011 Yearly report (due on August 31, 2011), and for each Yearly Report thereafter, districts will report interest earned during the previous fiscal year (i.e. July 1 through June 30). The District may choose either to return the interest to ARB by October 31 of the same year as the relevant Yearly Report or add the earned interest to the next funding cycle. For example, interest earned during fiscal year 2010-2011 (Moyer Year 13) could be returned by October 31, 2011, or placed under contract and expended on the same schedule (and with the same requirements) as other 2011-2012, Moyer Year 14 funds. A portion of such interest funds may also be spent on administration consistent with 13(c) above. For reporting purposes, such interest funds will be added to other Carl Moyer Program funds and will thus be counted in the cumulative contract execution and fund expenditure targets tracked by CARL. Projects funded by such interest will be counted toward meeting those targets. The targets will be adjusted to take into account interest used to pay for administrative costs.

#### **(Section 14) Program Administration and Outreach Funding**

- (a) District Funding. Air districts with one million or more inhabitants may use up to five percent of their Carl Moyer Program funds on program outreach and administration, while districts with under one million inhabitants may use up to ten percent of their Carl Moyer Program funds (see HSC § 44299.1(c)&(d)).
- (b) Allowable Costs. Administrative funds shall only be used for costs associated with the program implementation related tasks outlined in these Guidelines and must be documented by the district. Administrative funds shall be used for Carl Moyer Program administration and outreach including: district staff time; consultant fees; printing, mailing, and travel costs; project monitoring and compliance expenses; and indirect costs such as general administrative services, office space, and telephone services.

- (c) Required Documentation. Districts must maintain documentation of Carl Moyer Program funds used for administration and outreach. Districts must keep the following documentation:
- (1) Personnel documentation must make use of timesheets or other labor tracking software. Duty statements or other documentation may also be used to verify the number of staff and actual hours or percent of time staff is devoted to Carl Moyer Program administration and outreach.
  - (2) Consultant fees must be documented with copies of the consultant contract and invoices.
  - (3) Printing, mailing, and travel expenses must be documented with receipts and/or invoices.
  - (4) If travel and per diem expenses are used to document program administrative costs, allowable travel costs and per diem rates must be described in the district's Policies and Procedures Manual. District travel cost criteria must be consistent with the district's written travel policies for other district programs. Alternatively, if these definitions are included in local administrative code or other documents, the district may cite the document that governs its practices in the Policies and Procedures Manual.
  - (5) Indirect cost calculation methodologies, if used to determine indirect costs of program administration, must be fully described or referenced in the district's Policies and Procedures Manual. Districts must maintain documentation for all costs referenced in the indirect cost calculation formula.
- (d) The above documentation, records, and referenced materials must be made available for review during ARB or other State agency monitoring visits and audits. Such administrative records for a given funding year must be retained, at a minimum, until the applicable funding year liquidation deadline [e.g., for Year 13 (fiscal year 2010-2011) funds, the funding year liquidation deadline is June 30, 2015].
- (e) Districts that charge unallowable costs for program administration or outreach shall be required to substitute eligible administration and outreach expenses equal to the dollar amount found ineligible, or return the funds for the unallowable cost to the ARB as mitigation or returned funds.



### **(Section 15) Commitment of Project Funds**

Funds are considered to be committed to a project when the district officially selects an eligible project for funding through any of the following actions:

- (a) The contract between the district and the owner is fully executed.
- (b) The district's governing board approves a project for funding through a resolution, minute order, letter or other written instrument.
- (c) The APCO or other Board-authorized representative sends the successful applicant a project offer letter.
- (d) The district inputs into CARL project details from applications it has determined are eligible for funding.
- (e) Program staff submits a list of eligible projects confirming the air districts commitment to fund these projects. (From section 8(c)(2)(B))

### **(Section 16) Progress Tracking: Contract Execution**

- (a) By June 30<sup>th</sup> of each year, districts shall make every effort to have under executed contract all Carl Moyer Program funds associated with the funding year one calendar year prior as well as any other funds in the applicable target (see section 19(b) regarding target). Thus, for example, all funds awarded Year 13 (fiscal year 2010/2011) should be under executed contract by June 30, 2012.
- (b) Match funds should be under executed contract by the same contract execution deadline as the Carl Moyer Program funds with which they are associated regardless of the date such funds were collected by the district.
- (c) For Carl Moyer voucher programs, the voucher issue date will be used to gauge progress in contract execution.

### **(Section 17) Progress Tracking: Fund Expenditure**

- (a) By June 30<sup>th</sup> of each year, districts must have expended all Carl Moyer Program project funds associated with the funding year, two calendar years prior, as required by HSC §44287(k), as well as any other funds in the applicable target (see section 19(b) regarding target). For example, funds awarded Year 13 (fiscal year 2010-2011) must be expended by June 30, 2013. By this date, all administrative funds must be liquidated, as described in Section 18(c).

- (b) Match funds must be expended by the same expenditure deadline as the Carl Moyer Program funds with which they are associated regardless of the date the match funds were collected by the district.
- (c) All funds under a project's contract are considered expended for the purposes of progress tracking under the following conditions:
  - (1) The project is liquidated per section (18)(b), or
  - (2) An invoice for the project has been fully or partially paid by the air district consistent with section (32) and such invoice payment covers the grant amount for at least one operational new engine, vehicle, or piece of equipment under the project's contract. An electric agricultural irrigation pump is considered operational for the purposes of this definition once it has been delivered to the project participant and has been connected to the electricity grid.
- (d) Any funds associated with an engine, vehicle, or piece of equipment cancelled from a contract prior to the liquidation of the contract as a whole shall no longer be considered to be expended beginning at the time of the cancellation.
- (e) For shore-side shore power projects only, all contracted project funds are considered expended for the purpose of progress tracking if the following requirements are met:
  - (1) The necessary customized equipment for each location (e.g., pier, dock) has been procured and invoiced. Examples of eligible equipment include a transformer, grounding switches, a service breaker, a capacitor bank, and cranes or booms for cable management that have been customized for installation at the project location, and;
  - (2) The customized equipment is present on site and ready for installation, and;
  - (3) Seventy-five (75) percent or more of the Carl Moyer Program-eligible customized equipment costs or total project costs (including non-Carl Moyer Program-eligible infrastructure costs borne by the applicant or local public utility), whichever is greater, has been paid by the June 30th expenditure deadline. Withheld funds shall not be counted as "paid" in this determination.

Ship-side shore power projects, which are similar to other engine-based retrofit projects that do not require extensive construction schedules, are counted as expended using the same criteria listed in (c) above.

#### **(Section 18) Progress Tracking: Fund Liquidation**

(a) Funding Year Liquidation

- (1) By June 30<sup>th</sup> of each year, districts must have liquidated all Carl Moyer Program funds associated with the funding year four calendar years prior as well as any other funds in the applicable target (see section 19(b) regarding target). For example, funds awarded Year 13 (fiscal year 2010/2011) must be liquidated by June 30, 2015. The exception is funds awarded Year 8 (fiscal year 2005/2006); such funds must be liquidated by June 30, 2011.
- (2) Match funds must be liquidated by the same liquidation deadline as the Carl Moyer Program funds with which they are associated regardless of the date such funds were collected by the district.
- (3) To liquidate a funding year, beginning with Year 8 (fiscal year 2005/2006), districts shall, using the CARL database, identify the liquidated projects to be included. All identified projects will remain associated with that year's liquidation. Districts shall also certify that all funds associated with the funding year are liquidated.
- (4) A funding year that has been liquidated by a district will be removed from cumulative tracking.
- (5) At ARB's discretion, a funding year adjustment to a later, un-liquidated funding year may be made to correct for errors discovered in an earlier, liquidated, funding year.
- (6) For purposes of progress tracking, ARB considers Years 1-7 (fiscal years 1998/1999 through 2004/2005) to be liquidated. All projects associated with those funding years shall remain associated with them; i.e., such projects are no longer available for use in cumulative tracking and shall not be counted in later funding years. Any district with knowledge of un-liquidated funds from such funding years shall notify ARB and take appropriate actions such as returning those funds to ARB or, at ARB's discretion, make a funding year adjustment to a later, un-liquidated funding year.

(b) Individual Project Liquidation

- (1) A project's funds are considered to be liquidated for the purpose of progress tracking if all invoices associated with the project under contract have been paid.
- (2) For completed projects for which all invoices have been paid except for a small amount withheld for making progress payments, both the paid funds and the withheld funds shall be considered liquidated for the purpose of

progress tracking. Such progress payments, if used, must be covered in the project's contract and in the district's policies and procedures manual. Withheld progress payments considered to be liquidated per this section that are not ultimately paid to the grantee due to non-performance shall be treated like other recaptured funds consistent with sub-section (3) below.

- (3) Funds that have been liquidated on a given project but are later returned to the district are considered recaptured funds. For the purposes of progress tracking, such funds will still be considered to be liquidated with regard to the original project, but will be added to the contract execution, expenditure, and liquidation targets of the current funding year as a funding year adjustment when the funds are returned.

For example, if Project X is liquidated in 2010 but in February 2012, the grantee opts to end the contract early and pays the district back a prorated amount of the grant, for tracking purposes the funds associated with Project X are still considered to be liquidated in 2010. However, the amount paid back to the district is added as an adjustment to the district's Year 14 (fiscal year 2011/2012) targets.

- (4) Per section 29(e)(1), each project's contract must be liquidated within four years from the original date of contract execution. Under no circumstances may the liquidation date be extended beyond four years from the original date of contract execution.
- (c) Administrative fund liquidation. Administrative funds associated with a grant must be liquidated by the expenditure deadline requirement for the grant as required by HSC §44287(k). For example, administrative funds associated with funds awarded Year 13 (fiscal year 2010-2011) must be liquidated by June 30, 2013.

### **(Section 19) Cumulative Progress Tracking**

- (a) In meeting program milestones to execute contracts, expend funds, and liquidate funds, ARB shall track district progress cumulatively. Funds associated with a given funding year must be fully accounted for; however, deadlines may be met on a cumulative basis. For example, a district that must demonstrate expenditure of Year 8 funds by the two-year statutory deadline may utilize Year 9 funds expended early in place of Year 8 funds not yet expended.
- (b) To assist with cumulative tracking, ARB shall maintain in the CARL database appropriate progress tracking targets for each participating district for each funding year. These targets shall list the total funds required to meet given milestones such as contract execution, fund expenditure, and funding cycle liquidation. Such tracking targets shall include, as appropriate, Carl Moyer

Program grant funds (including Multidistrict funds awarded pursuant to HSC §44286, Rural District Assistance Program funds, and Carl Moyer voucher program funds), required match funds, interest funds, reallocated funds, recaptured funds, and any other relevant funds associated with the Carl Moyer Program.

- (c) ARB will adjust progress tracking targets to account for the movement of funds into and out of a district's account (i.e., funds donated to or received from RAP), for in-kind match, for interest spent on administration, or as otherwise needed.

## **(Section 20) Yearly Report**

- (a) ARB shall send districts a copy of the appropriate Yearly Report template to fill out, or make the report template available on ARB's website. The Yearly Report template shall include instructions for the report's completion and shall be available to districts by June 30.
- (b) Districts shall submit the Yearly Report on or before August 29<sup>th</sup>. This report shall provide information regarding projects associated with funds received that are under executed contract as of June 30<sup>th</sup> of that year. Districts that dedicate their full allocation to the Rural District Assistance Program are not required to report regarding those funds.
- (c) The Yearly Report must include the following information:
  - (1) Project details sufficient to populate the data fields in the CARL database for each Carl Moyer Program project, including match fund projects, projects funded with earned interest, and AB 923 \$2 MV Fee projects claimed for State Implementation Plan credit. To provide such project details for the Yearly Report, Districts shall update all of their project information in the CARL database and shall ensure that all information in CARL is complete, correct, and supported by relevant documentation (e.g., executed contracts and project invoices) maintained by the district.
  - (2) Quantitative information regarding progress through June 30<sup>th</sup> on reaching program milestones such as contract execution, fund expenditure, and funding cycle liquidation, as tracked cumulatively. A district may waive contract execution reporting requirements if the district is covered by a contingency plan to move uncommitted funds to RAP or to a partnering district no later than March 1 prior to the expenditure deadline of the funding cycle (e.g., by March 1, 2011, for Year 11 funds, which have a June 30, 2011, expenditure deadline). Contingency plans must receive district board approval. Contingency plans involving participation of multiple districts must be described in an MOU approved by all participating district boards.

- (3) The APCO, Chief Financial Officer (CFO), and Carl Moyer Program Administrator must sign and certify that the project and fiscal information contained within the Yearly Report is, to the best of their knowledge, accurate and complete. The District Board may designate an alternate for the CFO; however, the designated alternate must be someone in addition to the APCO or Program Administrator, therefore ensuring certification of the report by more than one person. Submission of executed contracts and/or project invoices is not required. Physical documents are to be maintained at the district office and made available to ARB upon request.
  - (4) A brief narrative specifying any enforcement actions taken and/or any funds recaptured from liquidated projects.
  - (5) Amount of interest accrued on State Carl Moyer Program funds. See Section 13 for more regarding earned interest.
- (d) Projects funded with the AB 923 \$2 MV Fee that are not Carl Moyer Program match projects shall be reported as follows:
- (1) Districts claiming State Implementation Plan credit for AB 923 \$2 MV Fee projects must report project-by-project details by entering them into CARL.
  - (2) Districts not claiming SIP credit for AB 923 \$2 MV Fee projects must report fund expenditures for each of the four allowed uses identified in Section 9(a) of this chapter, but are not required to report project-by-project details. However, ARB recommends that districts make project information publically available in the interests of transparency.
- (e) Districts that have not executed contracts to cover all project funds received during the previous calendar year shall work with their ARB Carl Moyer Program liaison to ensure the district is on target to expend all required program funds within two years (see Section 19 – Cumulative Progress Tracking). At a minimum, such districts shall provide an e-mail or other written documentation briefly describing:
- (1) The reason for the delay in executing contracts, and
  - (2) Their schedule for executing the remaining contracts, returning funds to ARB, contributing the funds to the Rural District Assistance Program, or other action(s) as needed to ensure project funds are expended within the two-year deadline. Districts choosing to contribute funds to the Rural District Assistance Program must do so by the March 1 date preceding the applicable funding year expenditure deadline (e.g., by March 1, 2011, for Year 11 funds, which have a June 30, 2011, expenditure deadline)

- (f) If the Yearly Report identifies an expenditure shortfall, the district must submit and ARB must receive a check for the shortfall amount by August 29, concurrent with the deadline to submit the Yearly Report. No additional disbursements will be made to districts until the returned funds have been received by ARB.
- (g) Receipt of a Yearly Report by ARB does not imply ARB approval of project eligibility. Air district staff is responsible for project approval and funding eligibility determinations.
- (h) Districts that are found to have funded ineligible projects shall be required to substitute eligible projects equal to the amount found ineligible or return the ineligible amount to the ARB as mitigation or returned funds.

#### **(Section 21) Progress Questionnaire**

- (a) Twice a year ARB will provide a questionnaire to each implementing air district requesting an update regarding district progress towards meeting its contract execution and expenditure targets, measured cumulatively using the same calculation methods as used in the Yearly Report. ARB will include, for each district's review, an update regarding the amount of grant funds remaining to be disbursed to the district.
- (b) This completed progress questionnaire must be submitted to ARB on the first business day of April and December each year. At a minimum, the questionnaire should include the requested information through the end of February and October, respectively. Alternatively, district staff may notify ARB in writing (e.g. e-mail) that the district has updated all project equipment and administrative information in CARL.
- (c) As with the Yearly Report, a district may waive progress questionnaire contract execution reporting requirements if the district is covered by a contingency plan to move uncommitted funds to RAP or to a partnering district no later than March 1 prior to the expenditure deadline of the funding cycle (e.g., by March 1, 2011, for Year 11 funds, which have a June 30, 2011, expenditure deadline). Contingency plans must receive district board approval. Contingency plans involving participation of multiple districts must be described in an MOU approved by all participating district boards.

#### **(Section 22) ARB Audit of Air Districts**

- (a) State law provides ARB with the responsibility and authority to oversee and audit Carl Moyer Programs and related emission reduction incentive programs (HSC §44291 and §39500). ARB audits help to ensure that district programs achieve expected emission reductions and are implemented in a manner consistent with

program guidelines and State law. Besides identifying program deficiencies, audits are also designed to provide ARB with a mechanism for identifying the strengths of district programs. ARB's specific audit procedures are described in more detail in the Carl Moyer and School Bus Program Auditing Policies and Procedures Manual posted on the Carl Moyer Program website <http://www.arb.ca.gov/msprog/moyer/audits/audits.htm>.

- (b) AB 923 \$2 MV Fee projects are subject to audit or evaluation as follows:
  - (1) A Carl Moyer Program match project funded with the AB 923 \$2 MV Fee shall be subject to the same auditing and oversight requirements and protocols as other Carl Moyer Program match projects.
  - (2) A non-match project funded with the AB 923 \$2 MV Fee may be evaluated by ARB as part of an audit. Evaluation of these projects shall be limited to project eligibility. Any irregularities regarding non-match AB 923 \$2 MV Fee project eligibility shall be reported separately from Carl Moyer Program audit findings.
- (c) ARB shall audit a sufficient number of districts each year – commensurate with approximately 10 percent of program funds -- to ensure proper program implementation. The goals for frequency of district audits is as follows:
  - (1) Large districts - every 4 years.
  - (2) Medium districts - every 6 years.
  - (3) Small districts - every 8 years.
- (d) To ensure objectivity and the efficient use of resources, ARB shall use a risk-based approach to select specific districts for audit during a given year and to select specific district projects to audit. Consistent with this approach, districts that demonstrate good performance when audited will likely be audited less frequently in the future than similarly-funded districts with poorer audit results.
- (e) ARB's responsibilities during an audit include the following:
  - (1) Audits shall be conducted in a manner that reflects the public responsibility and accountability entrusted to ARB.
  - (2) ARB shall generally limit the scope of an audit to cover the two most recently-completed funding years and the two years currently in progress. For example, an audit initiated April 2010 would typically cover Year 8 (completed June 30, 2008), Year 9 (completed June 30, 2009), and Years 10 and 11 (in progress). Once a given funding year is audited, ARB will



typically not audit it again unless warranted. ARB reserves the right to investigate possible fraud or misuse of funds in any program year.

- (3) ARB shall maintain open channels of communication with the district under audit. ARB's audit procedures contain a number of provisions to enable open communications. Such provisions include fully explaining the audit's scope and procedure at the beginning of the process, discussing preferred channels of communication with the district, informing the district of potential issues as they unfold, affording numerous opportunities for district input throughout the audit, thoroughly discussing any findings and recommendations with the district during the exit interview, and allowing the district an opportunity to formally respond to the audit report.
  - (4) To ensure objectivity and predictability, ARB shall base its findings and recommendations on materials such as State law, ARB's Program Guidelines and Mail-Outs, Program Grant Award and Authorizations, e-mail communications between ARB and the district, a district's Policies and Procedures Manual, and a district's local requirements.
  - (5) All audit reports, district responses, and related documents shall be readily available to the public.
  - (6) ARB shall conduct sufficient follow-up activities, including assisting districts and conducting follow-up reviews, to ensure that any identified deficiencies are promptly and effectively rectified.
- (f) Air district responsibilities during an audit include the following:
- (1) Districts shall ensure that program files and other requested information are readily available to audit staff. Unless otherwise specified for a specific source category, project files must be retained for a minimum of two years after the end of the contract term or a minimum of three years after final payment, whichever is later. Applications that were not selected for funding shall be retained for a minimum of three years after receipt. Administrative records for a given funding year (including personnel documentation and records of various administrative expenses per section 14) must be retained, at a minimum, until the applicable funding year liquidation deadline [e.g., for Year 13 (fiscal year 2010-2011) funds, the funding year liquidation deadline is June 30, 2015].
  - (2) District management shall, at a minimum, participate in the entrance and exit interviews and shall ensure that district staff are cooperative with audit staff.
  - (3) District staff shall communicate fully with audit staff and with district management throughout the course of an audit.

- (4) Districts shall make every effort, including requesting assistance from ARB if necessary, to ensure that identified deficiencies are promptly and effectively rectified. Districts shall report on their progress at specified intervals.

### **(Section 23) Return and Reallocation of Unexpended Funds**

- (a) Any district whose latest required Yearly Report does not demonstrate full expenditure of program funds within two years, must return the expenditure shortfall within 60 calendar days after the June 30<sup>th</sup> expenditure deadline, as required by HSC §44287(k).
- (b) ARB shall reallocate returned funds to air districts per HSC §44299.2(c). Districts may apply for any amount of the available funds. To be considered for funding, a district must apply for the funds and the application must demonstrate the district's ability to expend the amount requested on eligible Carl Moyer Program projects by the following June 30.
- (c) If the total returned funds are less than \$300,000, ARB shall reallocate the funds to districts and/or projects identified in (b) above that best match the available funds.
- (d) If the total returned funds are \$300,000 or greater, ARB shall take the following steps to reallocate the funds the funds:
  - (1) Using the districts identified in (b) above, use the allocation methodology per HSC §44299.2.
  - (2) Adjust the results from (d)(1) above using the project lists submitted in (b) above to best match the available funds while also attempting to provide up to 20 percent of funds to rural air districts.
- (e) No administration is provided with reallocated funds.
- (f) No matching funds are required for reallocated funds.
- (g) For the timeline for reallocation and expenditure of returned funds, see section 3 of this chapter – Table 2.

### **(Section 24) Program Non-Performance**

- (a) Program non-performance is district non-compliance with program Guidelines or statute that is not corrected by the district in a timely or satisfactory fashion. As

directed by HSC §44291(d), ARB shall monitor district programs to ensure that participating districts conduct their programs consistent with the criteria and guidelines established by the state board. Examples of program non-compliance with program Guidelines or statute include:

- (1) Failure to return to ARB a check for the expenditure shortfall identified by the Yearly Report as required by HSC 44287(k).
  - (2) Misuse of Carl Moyer Program funds, including funding of ineligible projects.
  - (3) Insufficient or improper program oversight and enforcement, including widespread deficiencies in project contracting, inspections, or audits.
  - (4) Insufficient, incomplete, or inaccurate project documentation.
  - (5) Failure to submit timely and accurate Annual and Final reports to ARB.
- (b) ARB shall make every effort to assist any non-performing districts.
- (c) When ARB determines that a district program is non-compliant, ARB shall initiate a series of informal steps to assist the district as follows:
- (1) The ARB district liaison and manager shall work with the district staff to understand and resolve the issue.
  - (2) If the ARB Branch Chief determines that the non-performance issue has not been resolved, the ARB Branch Chief shall contact the district APCO and continue the informal process to understand the issue and offer help to resolve the issue.
- (d) If the ARB Branch Chief determines that the non-performance issue has not been resolved through (c), ARB shall initiate a formal series of progressive steps to assist the district. The formal steps are:
- (1) The ARB district liaison shall send a Program Non-Performance Notification email to the district's program contact that contains the following:
    - (A) Description of the problem.
    - (B) Pertinent details, such as names of involved persons and projects, dates, dollar amounts, and citations of relevant guidelines sections, Health and Safety Code, and regulations.
    - (C) Possible solutions to the problem, if some have been identified, and/or offer ARB assistance.

- (D) Arrangements for a meeting between the ARB Branch Chief and the district APCO to agree on a plan and timeline for resolving the problem. The plan and timeline shall be recorded by the ARB district liaison and emailed to the district APCO within five business days of the meeting.
- (2) Lacking satisfactory resolution of the issue(s) through the steps described above in (d), the ARB Executive Officer shall determine if the non-performance issue identified in (d)(1)(A) warrants ARB's recapture of funds that have been granted to the district and not yet awarded to approved projects as per HSC §44291(d). If so, ARB will send a letter of Program Non-Performance to the district APCO. The letter will set a public meeting to be held at the district's offices (or other appropriate facility within the district). The purpose of the meeting is to consider public comments prior to recapture of funds.

**(Section 25) Previous language deleted. Intentionally blank.**

**(Section 26) Minimum Project Application Requirements**

- (a) Districts and ARB shall conduct outreach to inform potential project applicants of the availability of grants and the requirements and objectives of the Carl Moyer Program (see Health and Safety Code § 44290).
- (b) Project applications must include all information needed to populate and calculate project cost-effectiveness in CARL.
- (c) Information regarding previous years of existing engine usage (e.g. miles traveled, hours operated, or fuel consumed per year) must be documented and included in the project application. This information must be used to evaluate project cost-effectiveness and the maximum grant award amount. At the air district's option, minimum annual usage is not required to be specified in the contract for projects documented and verified by the air district to have at least twenty-four (24) months of complete historical usage prior to the application date.
- (d) Applications must include a signature section for third parties. A third party may complete an application or part of an application on an owner's behalf if the vehicle, engine, or equipment owner signs the application. The third party signature section must include signature and date lines, and blanks for the third party to indicate the amount and source of payment, if any.
- (e) Project applications must include a disclosure statement that the owner or the owner's designee must sign.

- (1) The disclosure statement shall specify that the applicant has not submitted an application for incentive funds to any other entity or program for the same equipment (for example, repowering of the same project engine). If so, the applicant must disclose to whom the other application was submitted, and whether funds have been awarded or may be awarded. If funds have been awarded or may be awarded, the funding amount must be disclosed.
- (2) An applicant may re-apply for project funding if a previous application for the same project has been rejected by the district and is no longer being considered for funding.
- (3) An applicant shall disclose the value of any current financial incentive that directly reduces the project cost, including tax credits or deductions, grants, or other public financial assistance for the same engine. The incremental cost of the project shall be reduced by the amount of the current financial incentive.
- (4) An applicant who is found to have applied for or received incentive funds from another entity or program for the same project without disclosing that information as required by Section 26(e)(1), above, shall at a minimum, be disqualified from funding for that project from all sources within the control of a district or ARB. ARB and the air districts may also seek civil penalties for such non-disclosure.
- (5) The applicant shall certify in the disclosure statement that he or she has reviewed the application and that the application information is accurate and correct.

#### **(Section 27) Application Evaluation and Project Selection**

- (a) In accordance with HSC, § 44288(a), districts must review all applications for completeness upon receipt and notify the applicants within five working days of receipt if their application is not complete. The air district shall make every effort to clearly state to the applicant what is required to make the application complete. The application and all correspondence with the applicant should be kept in the applicant's project file. Additionally, the record of each project's rating and ranking, receipt date, or other project selection criteria must be maintained with the project file.
- (b) Air districts are responsible for determining that project applications are credible, made in good faith, and in compliance with the Carl Moyer Program and its objectives.

- (c) Districts must ensure that the emission reductions provided by selected projects are eligible and surplus to compliance deadlines of adopted regulations and other legal requirements. This should include checking to ensure the project meets all of the minimum requirements outlined in the appropriate source category chapter:
  - (1) Documentation of historical vehicle, equipment, or engine usage.
  - (2) Documentation of project costs.
  - (3) Engine or retrofit device Executive Orders, if applicable.
  - (4) Proof of a vehicle compliance check, as needed, for on-road projects.
  - (5) Other documentation identified in the relevant source category chapter.
- (d) Districts must have a system for tracking applications. CARL may be used to satisfy this requirement if the district enters the data from all applications received into this database, whether the application is provided funding or not. At a minimum, the tracking system shall include the minimum information needed to readily identify the project applicant, project type, and project eligibility, and to calculate project cost-effectiveness and maximum grant award in CARL. Air districts that import project information into CARL are responsible for ensuring the accuracy of their calculations of cost-effectiveness and eligible funding amounts. Minimum allocation districts are not required to maintain an application tracking system. Any other implementing air district receiving less than one-half percent of the current fiscal year total Carl Moyer Program Funds, or \$450,000, whichever is less, is exempt from this requirement.
- (e) The following requirements apply to those districts that do not operate and maintain their own database:
  - (1) Information for projects selected for funding shall be entered into CARL to ensure each project meets the emission reduction requirements and cost-effectiveness criteria of the Carl Moyer Program.
  - (2) No project shall be funded unless CARL indicates the emission reduction requirements and cost-effectiveness criteria of the Carl Moyer Program have been met.
  - (3) If CARL indicates the project does not meet either the emission reduction requirements or the cost-effectiveness criteria of the Carl Moyer Program and the district representative believes the project should actually qualify, the district representative may contact his or her ARB liaison to further evaluate project eligibility.

- (f) The district shall maintain a copy of each application and a file for each project selected for funding. A district may use a solely electronic file system only if the district satisfactorily demonstrates to ARB that all documentation is maintained and can be easily accessed on demand. Unless otherwise specified for a specific source category, project files must be retained for two years after the end of the contract term or a minimum of three years after final payment, whichever is later.
- (g) Districts must keep project applications until a minimum of three years after receipt for projects not selected for funding.
- (h) Projects approved for funding must meet all applicable requirements of these guidelines. Once a district has checked the eligibility of projects, the district must follow its Policies and Procedures Manual in selecting projects to fund.
- (i) A district's methodology for notifying grantees of their prospective award must be included in its Policies and Procedures Manual.
- (j) Districts with a population greater than one million inhabitants must select from their applicant pool in a way that ensures that 50 percent or more of their Carl Moyer Program funds (including the smog check fee and tire fee) are expended on projects that are located in/or operate in environmental justice/high risk communities. (HSC § 43023.5)
- (k) ARB shall include a solicitation packet on its website for multidistrict projects that are solicited and selected by ARB pursuant to HSC § 44286(d). The multidistrict project solicitation packet shall include the application requirements and application due date, project eligibility criteria, and project selection criteria.

#### **(Section 28) Case-by-Case Determination Process**

- (a) An air district must request ARB review of a project or other Carl Moyer Program element that varies from the requirements of these Guidelines for a case-by-case determination. ARB Carl Moyer Program staff may approve such a project or other program element if the outcome of the determination does not adversely impact achievement of real, surplus, quantifiable, enforceable, and cost-effective emission reductions, would not significantly reduce program transparency, and is not prohibited by law.
- (b) An air district requesting a case-by-case determination for a project must submit the following to Carl Moyer Program staff (e.g. liaison and/or source category expert) prior to contract execution:

- 1) A summary of the request and reference(s) to the pertinent area(s) of the Guidelines which the district is asking for additional guidance and approval.
- 2) Documents providing information essential to the request for approval including, but not limited to, baseline and new engine information, the associated ARB engine Executive Orders and/or U.S. EPA Certificate of Conformity for baseline and new engines, other related applicant information from a completed application.
- 3) Other information and documents as requested by Carl Moyer Program staff.

Once the above information has been submitted, ARB staff will respond to the air district within 15 business days with a determination or estimated date of determination.

- (c) The requested project or program element submitted for review shall be deemed:
- 1) “Approved.” Approval of a project does not imply or equate to “blanket approval” of other similar projects.
  - 2) “Not Approved.” Non-approval of a project does not imply or equate to “blanket non-approval” of other similar projects.
  - 3) “No Action / CBC approval not required.” ARB evaluation concludes that a case-by-case determination is not required as the request already conforms to the requirements or intent of the Guidelines.

Air districts are required to request a case-by-case determination even if they believe a project is similar to previously-approved case-by-case projects. However, if ARB receives recurring requests for similar case-by-case projects with common characteristics, then ARB may issue a notice for a general case determination subject to a 45 day public comment period; after which time, the general case determination would issue guidance covering eligibility for a particular project type or program element. Subsequent requests for ARB approval would not be required for a project or program element covered by a general case determination.

- (d) All case-by-case determinations submitted for review and all general case determinations will be made available to the public via web posting at ARB's Carl Moyer Program website.
- (e) Air districts are required to keep a copy of the determination, either approved or not approved, in the project file. Written case-by-case approval for other program elements must be kept by an air district and be readily available for ARB audit staff.



- (f) All attempts should be made to request a case-by-case determination prior to contract execution, as stated in (b) of this section. However, in rare circumstances subsequent to contract execution, in which an unforeseen event leads to a project or program element that varies from the requirements of these Guidelines, a request for case-by-case determination as outlined in (b) is also required.

### **(Section 29) Minimum Contract Requirements**

- (a) General Requirements. Districts participating in the Carl Moyer Program must execute contracts with applicants who shall receive funds under the Carl Moyer Program. All Carl Moyer Program project contracts must include the elements described in this section. All executed project contracts and contract amendments must be kept in the district's project file.
- (b) Party Names and Date. All contracts shall state the name of the district and the owner as parties to the contract. Contracts shall include signature blocks with an area for the dates the contract is signed, or the execution date must otherwise be clearly indicated in the contract.
- (c) Notices. All contracts shall include contact information for both parties to the contract, including how to send and receive notices.
- (d) Funds from Other Sources. The owner or owner's designee must sign a statement that certifies that the owner or designee has not received any other source of funds from the time of submittal of the initial Carl Moyer Program application nor shall they submit another application or sign another contract for the same specific project (such as repowering of the project engine), including but not limited to other districts or ARB (for a multi-district solicitation). An owner or designee may receive funding from multiple air districts or grant programs if these entities are coordinating to jointly fund the project.
- (e) Contract Term. All contracts shall specify the term of the contract. The contract term shall include two time frames – “project completion” and “project implementation” – to ensure that the district and ARB can fully enforce the contract during the life of the Carl Moyer Program-funded project.
  - (1) Project Completion. Project completion is the time frame starting with the date of execution of the contract to the date the project post-inspection confirms that the project has become operational. This includes the time period when an engine or vehicle is ordered, delivered and installed. The contract shall include a specified time frame in which project completion shall occur so that the contract is liquidated within four years from the original date of contract execution. Under no circumstance may the

liquidation date be extended beyond four years from the original date of contract execution.

- (2) Project Implementation. The project implementation time frame is the second part of the contract term, and must equal the project life used in the project cost-effectiveness calculation. The contract shall specify that the owner is required to operate and maintain their Carl Moyer Program-funded project according to the terms of the contract for the full project implementation period.
- (f) Project Specifications. All contracts shall include detailed information on the baseline and new vehicles, equipment, and/or engines that were used in the project cost-effectiveness calculation. This requirement may be met by including the project application as an attachment to the contract as long as the application is accurate and complete. A program-eligible new vehicle, piece of equipment and/or engine that is verified or certified to achieve equivalent or greater reductions than the original project new vehicle, piece of equipment and/or engine may be substituted with prior approval of the district. All contracts shall specify the amount the engine is to operate within California (or the district) each year based on hours, miles, or fuel usage. For projects for which at least twenty-four (24) months of complete historical usage are documented and verified by the district, minimum annual usage is not required to be specified in the contract. Such historical usage shall be documented for at least the twenty-four (24) consecutive months immediately prior to the application date. The types of acceptable documentation for establishing historical annual usage will be clearly defined in each district's policies and procedures manual and will be subject to ARB approval at ARB's request. Additional forms of documentation to verify historical annual usage that are not included in a district's policies and procedures manual can be evaluated and approved by ARB on a case-by-case basis.
- Contracts must also contain a statement that the project complies with the Carl Moyer Program Guidelines and criteria and shall meet all program requirements for the full contract term.
- (g) Maintenance. All contracts shall require the owner to maintain the vehicle, equipment and/or engine according to the manufacturer's specifications for the life of the project, and shall include a prohibition on engine tampering. The owner shall maintain a working hour meter for projects that use hours of operation as a means of calculating emission reductions and cost-effectiveness. If the hour meter fails, the owner shall immediately notify the district, and remains responsible for validating any hours not recorded by the hour meter. The owner must either repair or replace the non-operating meter or provide other documentation of equipment operating hours acceptable to the district.

- (h) Payment. Before a Carl Moyer Program payment may be made to a project participant, the project contract must be executed, an eligible invoice must be received by the district, and the project post-inspection must be successfully completed to document the completion of the work specified in the invoice. The equipment must be operational before the final payment is issued. All contracts must include the following payment terms:
- (1) Maximum Contract Amount. The maximum contract amount must not exceed the maximum funding level corresponding to the current program cost-effectiveness limit, nor may the maximum contract amount exceed the project incremental cost. The maximum contract amount must also comply with any funding caps and other criteria for the specific project category as identified in these Guidelines.
  - (2) Itemized Invoices. Payment terms must require itemized invoices from the engine supplier for repowers or paid invoices from the vehicle owner for new vehicles, and satisfactory post-inspection by the district prior to payment of the owner's invoice. An invoice payment for a specific vehicle, engine, or piece of equipment may not exceed the amount indicated on the project contract for that vehicle, engine, or piece of equipment. The contract should be clear that the district will pay the lower of the contract amount or the final invoice amount. Invoices must meet the minimum requirements of Section 32 to be eligible for Carl Moyer Program funding.
- (i) Reporting. All contracts must include a provision for owners to submit annual reports commencing no later than 18 months after project post-inspection and continuing annually thereafter throughout the project implementation phase of the contract. The district shall include the dates the Annual Report is due.
- (1) If the district monitoring phase (i.e. project implementation phase) of the contract term exceeds five years, the owner's reporting responsibility may be reduced to once every other year after the initial five years of reporting.
  - (2) If the project is a zero-emission technology, reporting may be reduced to biennially for the first six years of the contract term. No Annual Reports are required thereafter.
  - (3) During the project implementation phase, the district is responsible for monitoring the project to assure the project is operational and the project emissions reductions are realized.
  - (4) The contract shall inform the owner that noncompliance with the reporting requirements shall require on-site monitoring or inspection(s).
- (j) On-Site Inspections and Audits. All contracts shall include language that allows the district, ARB, or their designee to conduct a fiscal audit of the project and/or

to inspect the project engine, vehicle, or equipment and associated records during the contract term. Contracts must require the owner to maintain and retain the project records for at least two years after contract expiration or three years after final project payment, whichever is later.

- (k) Repercussions for Nonperformance. Districts shall include repercussions for non-compliance with the obligations of the contract.
- (1) The contract shall specify that by executing the contract, the owner understands and agrees to operate the vehicle, equipment, and/or engine according to the terms of the contract and to cooperate with the district and ARB in implementation, monitoring, enforcement, and other efforts to assure the emission benefits are real, quantifiable, surplus, and enforceable.
  - (2) The contract must describe the repercussions to the owner for noncompliance with contract requirements, including but not limited to cancelling the contract and recapturing project funds in proportion to any loss of emission reductions as agreed to in the contract (see Health & Safety Code § 44291(c)).
  - (3) The contract must inform the owner that ARB and the district have the authority to fine the owner or seek other remedies available under the law for noncompliance with Carl Moyer Program requirements and nonperformance with the contract. Districts may consider unforeseen circumstances beyond the owner's control in determining repercussions for nonperformance.
  - (4) The contract must state that ARB, as an intended third party beneficiary, reserves the right to enforce the terms of the contract at any time during the contract term to ensure emission reductions are obtained.

### **(Section 30) Project Pre-Inspections**

- (a) Once an application is deemed eligible, a pre-inspection must be completed by the district. Districts may choose to allow public agencies (e.g. public works departments, transit organizations, and school districts) to provide documentation of the engine(s) and its use in lieu of a pre-inspection.
- (b) The pre-inspection form and information to be documented should include the following:
  - (1) Serial number of the baseline engine and any additional information necessary to assist in the verification of the baseline engine application

information. Engines without a visible and legible serial number must be uniquely identified by having the engine block stamped with a Carl Moyer Program number or alternative permanent marking, such as an engine tag.

- (2) All baseline vehicle, equipment, or engine information directly related to the application emission reduction calculations (engine Tier, vehicle model year, engine family, etc...) must be verified to be equivalent to that used to evaluate project cost-effectiveness.
  - (3) Verify the project usage (hours or miles) meter reading if used in the project cost-effectiveness calculation, and verify that stated project usage is reasonable given the usage meter reading.
  - (4) Verify the engine is operational (with a start-up) and that the engine is working as described in the application (document function and use).
  - (5) At least one photo shall be taken of each engine for the project file. The photo must include the legible serial number of the engine (if available) and/or any other identifying markings. Districts must include in their Policies and Procedures Manual a method for cataloging, referencing, storing and easily retrieving project-specific photos. These methods may include electronic filing for digital photos, the inclusion of project-specific information (applicant name, date, project number, etc.) within each photograph or inscribing each photo with pertinent project-specific information. ARB approval of the district's Policies and Procedures Manual shall indicate approval of the photo documentation methodology.
  - (6) Other relevant information including, but not limited to, name of inspector, date of inspection, name and contact information of engine or equipment owner, location of the engine or equipment.
- (c) A hard copy of the completed pre-inspection form must be maintained in the district's project file.
- (d) A district may enter into a contract with a vehicle or equipment dealer to pre-inspect on-road retrofit projects. All other projects must be pre-inspected personally by district staff. A district that enters into such a contract must ensure the following:
- (1) The vehicle or equipment dealer must complete and sign the appropriate inspection forms and provide photographic evidence that the equipment is correctly identified on the form. Photographic evidence must include the engine tag and emissions information.

- (2) The district must define in its Policies and Procedures Manual its protocol for ensuring the correct verified project retrofit will be properly installed on the eligible project vehicle.
  - (3) The district must define the consequences of fraud in the contract with the dealer.
  - (4) The district must randomly inspect at least ten percent of vehicles/equipment that have been pre-inspected by the dealer pursuant to the agreement.
- (e) The project pre-inspection must be completed prior to a project contract execution. A district may apply to ARB for approval to conduct pre-inspections after contract execution on a case-by-case basis. Case-by-case approval of such a procedure shall depend upon the following:
- (1) The district describes the program benefits it would achieve by conducting pre-inspections after contract signature.
  - (2) Language is included in the project contract to indicate contract terms may be adjusted or the contract may be deemed void based upon information collected during the pre-inspection. The district must also include a process for informing the project participant of such.
  - (3) The district's Policies and Procedures Manual clearly specifies the process for conducting pre-inspections after contract execution and any additional procedures enacted to ensure the project achieves real, surplus, enforceable, and quantifiable emission reductions. Work on the project engine, vehicle, or equipment may not commence until after the pre-inspection.
- (f) Minimum allocation districts and any other implementing air districts receiving less than one-half percent of the current fiscal year total Carl Moyer Program Funds, or \$450,000, whichever is less, may reduce their required project pre-inspections to a minimum of 25 percent of the total number of projects associated with the current fiscal year funds, with projects selected from each source category funded.

### **(Section 31) Post-Inspection**

- (a) Gathering and documentation of post-inspection information shall be completed on all projects funded under the Carl Moyer Program.
  - (1) The district shall conduct a post-inspection after it receives an invoice for a project from the owner or otherwise receives notice the project is

complete. If the post-inspection occurs before the district receives the project invoice, the invoice must be reviewed for consistency with the new engine, vehicle, or equipment information from the post-inspection form.

- (2) For public fleets such as transit organizations where more than 20 of the vehicles in the fleet are included in the project, the district may choose to inspect a statistically significant random sample of the vehicles included in the project.
  - (3) The inspector shall record and verify information with the project information listed in the contract. All new vehicle, equipment, or engine information directly related to the application emission reduction calculations (engine Tier, engine family, vehicle model year, retrofit device certification level, etc.) must be verified to be equivalent to that used to evaluate project cost-effectiveness. Moreover, the vehicle and engine information of the project inspected must match that in the contract to ensure the contract is enforceable.
  - (4) The engine must be operational in the equipment or vehicle as stated in the contract. The inspector must visually witness all engine start ups and operation of mobile projects.
  - (5) The vehicle, equipment, or engine information must be documented with photos. The photos must include the serial number of the engine or retrofit (if legible) and/or any other identifying markings. Photos of the scrapped or destroyed engine must be included. Districts must include in their Policies and Procedures Manual a method for cataloging, referencing, storing and easily retrieving project-specific photos. These methods may include electronic filing for digital photos, the inclusion of project-specific information (applicant name, date, project number, etc.) within each photograph or inscribing each photo with pertinent project-specific information. ARB approval of the district's Policies and Procedures Manual shall indicate approval of the photo documentation methodology.
  - (6) Other relevant information including, but not limited to, name of inspector, date of inspection, name and contact information of engine or equipment owner, location of the engine or equipment.
- (b) Post-inspection of a verified retrofit device requires additional documentation: the name of the manufacturer, diesel emission control strategy family name, product serial number, and, if available, month and year of manufacture (usually indicated as MM-YY). The month and year of manufacture may not be listed on the retrofit label if this information can be readily obtained from the retrofit manufacturer by reference to the serial number. Retrofits without the following information are considered non-compliant with ARB retrofit labeling requirements; districts must note whatever information is missing on the post-

inspection form and report the non-compliant label to ARB, per the following requirements.

- (1) Both the device and the engine are properly labeled with the required items: No further actions needed with regard to device inspection or follow-up. District may make payment on the device.
  - (2) The device is labeled properly but the engine lacks a label: The district must inform the applicant that the engine must also be labeled. The district may make payment on the device once the applicant has been informed.
  - (3) The device is labeled but the label does not have the required items: The district must contact the manager of the In-Use Control Measures section, or their Carl Moyer Program liaison, to determine if the alternate label has been approved by ARB. Once it gets ARB approval for the alternate label, the district may make payment on the device. If the alternate label has not been approved by ARB, the district may not make payment on the device until the label has been ARB-approved or a compliant label has been installed.
  - (4) No label is found on either the engine or the retrofit device: The district may not make payment on the device until a compliant label has been installed on both the engine and the device.
  - (5) The engine is properly labeled but not the device: The district may not make payment on the device until a compliant label has been installed on both the engine and the device.
- (c) The existing (old) engine must be destroyed and rendered useless.
- (1) The destruction of the engine must be documented by district staff. District staff must verify either in-person or through photographic or video evidence that the destroyed engine serial number matches that on the project contract.
  - (2) District staff must verify that engines without a visible and legible serial number are uniquely identified by the correct district stamp or other permanent marking prior to engine destruction, as per Section 30(b)(1) of this chapter.
  - (3) Methodology for verifying engine destruction must be identified in the district's Policies and Procedures Manual. ARB approval of the Policies and Procedures Manual shall indicate ARB approval of the district's methodology for verifying engine destruction.



- (4) Destruction methods and requirements specific to the on-road fleet modernization category, off-road equipment replacement, and the light duty vehicle category are described in those chapters.

### **(Section 32) Project Invoice and Payment**

- (a) With the exception of some progress payments as described in Section 32(f) below and consistent with Section 17 of this chapter, an itemized invoice for a project (or a completed portion of a project if a partial payment is being made consistent with (f) of this section below) must be received by the district and a post-inspection of the project (or a completed portion of a project) must indicate the project is in-place and operational before payment may be made. An electric agricultural irrigation pump is considered operational for the purposes of invoice payment once it has been delivered to the project participant and has been connected to the electricity grid. A project invoice must include enough detail to ensure only eligible project costs are being reimbursed, yet clear and concise enough to be understandable. The district shall review the itemized invoice and only pay for eligible expenses.
- (b) Charges for equipment and parts on engine repower projects are only eligible for funding if they are required to ensure the effective installation and functioning of the new engine, but are not part of typical vehicle or equipment maintenance or repair. Ineligible repower costs include tires, axles, paint, brakes, and mufflers. Ineligible marine vessel repower costs are described in the marine vessel chapter of these Guidelines.
- (c) In order to be eligible for Carl Moyer Program funding, labor expenses must be included in the project invoice, which should detail the number of hours charged and the hourly wage.
- (d) Taxes, installation costs for eligible hardware, and transport costs for eligible hardware are eligible for Carl Moyer Program funding at the district's discretion.
- (e) A potential grantee may not order or make a down payment on a new engine, piece of equipment, or vehicle prior to district approval of the project, either via contract execution or approval by the governing board or board designee. Dealers ordering engines, equipment, or vehicles prior to district approval of grant applications assume all financial risk, and are in no way ensured program funds. A grantee may not receive engines, equipment, or vehicles, nor may work begin on a repower or retrofit project, until the project contract is fully executed.
- (f) Partial payments, including progress payments, may be made only if the payment process and requirements have been reviewed and approved by the district, are described in the district's Policies and Procedures Manual, and are described in the contract. If multiple engines, vehicles or pieces of equipment

comprise a project under one contract, all the funds under the project's contract may be counted as expended consistent with Section 17(c) of this chapter as long as the district has paid the incremental cost of one or more units that are invoiced and ascertained by post-inspection to be in place and operational.

- (g) Progress payments (for example, providing partial payment for an engine prior to its installation and operation) shall only be made after the owner provides the district with sufficient evidence of completing predetermined milestones, such as engine delivery. The district must maintain a clear record of progress payments in the file and in the administration/fiscal unit of the district. Funds under a contract for which progress payments are being made may not be counted as expended until such time that the district pays the incremental cost of an invoiced engine, vehicle, or piece of equipment that has been ascertained by post-inspection to be in place and operational consistent with Sections 17(c) and 18(b)(2) of this chapter. Progress payments include final payments that are withheld until all reporting requirements are met (also known as “withhold payments”).
- (h) Payments typically shall be made directly to the project applicants. However, payments may be made directly to the dealer or distributor only if such payment arrangements are specified in the contract.
- (i) Additional project invoicing requirements may also be included in the source category chapters.
- (j) For all on-road projects, if a compliance check was not previously completed, the district shall verify with its ARB district liaison that there are no outstanding violations prior to payment.
- (k) For projects where the participant must comply with an ARB regulation early to receive funding, invoices may not be paid until the project participant has provided documentation that early compliance has been achieved. A project participant may demonstrate early compliance via a detailed letter signed by the vehicle or equipment owner or legal representative or, if the regulation requires ARB to certify compliance, through ARB certification. Districts are not to be held liable if a grantee falsifies this documentation.
- (l) Invoices received after the project post-inspection has been complete must be evaluated for consistency with the project post-inspection form, as per Section 31(a) of this chapter.
- (m) The district shall maintain copies of all invoices and documentation of payment in the project file or otherwise kept on-site at the air districts office and readily available.

**(Section 33) Grantee Annual Reporting**

- (a) Districts shall require all project participants (“grantees”) to submit annual reports commencing no later than 18 months after the project post-inspection and annually thereafter for the term of the contract, with the following exceptions:
  - (1) If the district’s monitoring phase of the contract term exceeds five years, the grantee’s reporting responsibility may be reduced to once every other year after an initial five years of satisfactory reporting.
  - (2) If the project involves a zero-emission technology, grantee reporting may be reduced to biennially for the first six years. No annual reports are required thereafter.
- (b) The annual report shall be in a format prescribed by the district and shall contain all of the following information:
  - (1) Owner’s name, address, and telephone number.
  - (2) Information needed to uniquely identify the project engine, vehicle, or equipment, such as engine make, model, horsepower, and serial number.
  - (3) Estimated percentage of time the vehicle or equipment has been operated in California since the previous annual report.
  - (4) Readings of the usage meter (hour meter, odometer, EMU, etc.). If usage is more than 30 percent below that identified in the project application, the grantee shall describe any conditions (such as weather, permits, major maintenance, etc...) that significantly impacted project usage. In instances where annual usage is significantly lower than the contracted level due to unforeseen circumstances beyond the control of the engine owner, the owner may request a waiver from the district per Section 35(d)(4).
- (c) The districts shall review the annual report for completeness, accuracy, and usage. A hard copy of the annual report, initialed and dated by the reviewing staff, shall be maintained in the project file. A district choosing an alternative method to indicate its review and approval of annual reports must identify such alternative method in its Policies and Procedures Manual.
- (d) If an annual report is incomplete, inaccurate or not received from an owner on schedule, the district shall make a reasonable attempt to obtain a complete and accurate report from the owner. If the district is unable to obtain the report, all of the engines in that project shall be audited by the district, as per Section 34 of this chapter.

- (e) Districts shall keep a list of project participants from whom any reports are more than six months late. Project participants with reports that are more than six months late shall not be granted any additional Carl Moyer Program funds until all reports are satisfactorily submitted.

#### **(Section 34) District Audit of Projects**

- (a) Districts shall conduct audits of projects funded with Carl Moyer Program Funds (see definitions, including awarded project funds, interest earned on awarded administration or project funds, and local funds used as program match funding). The audits shall, on an annual basis, include at least five percent of or 30 active projects (whichever is less) and all of the projects whose owners fail to submit their most recently required project annual report as required in section 33 of this chapter.
- (b) Audits shall be completed by district staff and shall, at a minimum, include an inspection that verifies that the engines and emission control devices paid for are still owned by the grantee named in the contract, operational in the same equipment, and meet the mileage, fuel usage, or hours of operation indicated in the executed contract. This shall be performed by checking the serial number of the engine; witnessing the operation of the engine; and checking the odometer, hour meter/usage device, fuel receipts, or EMU.
- (c) Audits of multi-equipment/engine projects of up to 25 pieces shall include inspection of at least two pieces, and for projects of 25 pieces or more shall include inspection of at least five pieces.

#### **(Section 35) Nonperforming Projects**

- (a) A district shall work with nonperforming project grantees to ensure Carl Moyer Program project requirements are met and emission reductions are achieved.
- (b) Off-road construction contracts for which the usage requirements are not being met may be extended to capture the required usage, even if the contract extension overlaps the required compliance date. This revision only applies to off-road construction contracts that have been executed prior to the issue date of this advisory August 15, 2008 and does not modify similar Moyer policy for other eligible categories.
- (c) A district shall make all reasonable efforts to recoup Carl Moyer Program funds from nonperforming applicants as needed to ensure funded emission reductions are achieved. A district's efforts to recoup funds may be guided by circumstances such as:

- (1) The existence of fraud or intentional misuse of funds, or
  - (2) The amount of Carl Moyer Program funding involved, or
  - (3) The ability of the applicant to repay the funds.
- (d) The district shall take appropriate action to ensure contracted emission reductions are realized per engine, equipment, or vehicle. Should the average usage over a three year period be less than 70 percent of the activity required in the contract, the district may choose, but is not limited to, the options below to address the underutilization. In cases of agricultural irrigation pump projects, which may have a contracted project life of less than three years, the same activity threshold of less than 70 percent applies.
- (1) Extend the project contract for additional years (precluding overlap with an applicable rule implementation requirement).
  - (2) Return funds in proportion to the loss in emission reductions.
  - (3) Transfer ownership of the engine, vehicle, or equipment to another entity committed to complying with the contract terms.
  - (4) Grant a waiver, without penalty, to the engine owner for a defined time period. The engine owner must demonstrate to the district Air Pollution Control Officer's satisfaction that the engine, vehicle, or equipment is not being underutilized in favor of operating other, higher-polluting equipment and the underutilization was due to unforeseen conditions beyond the owner's control.
    - (A) The conditions under which a waiver may be issued include, but are not limited to, the following:
      - (i) A decrease in usage due to the economic recession.
      - (ii) Unforeseen fluctuations in water allocations or pumping needs for agricultural irrigation pump engines.
      - (iii) Significant land fallowing for off-road agricultural equipment and agricultural irrigation pump engines.
    - (B) To be considered for a waiver, the engine owner must provide a written request to the district along with documentation that substantiates the need for the waiver and verifies that higher-polluting equipment is not consequently receiving more use. The types of acceptable documentation will be clearly defined and incorporated into each district's policies and procedures manual, and will be subject to ARB approval at ARB's request. Such

documentation may include, but is not limited to, documentation from appropriate governmental agencies regarding surface water deliveries and fallow land, relevant logs regarding the amount of groundwater pumped in lieu of surface water deliveries, agricultural pump engine registration/permit information, records that show that idled vehicles or equipment are still owned by the participant, relevant information from the ARB's Diesel Off-Road On-Line Reporting System (DOORS), or other pertinent records. Additional forms of documentation that are not included in a district's policies and procedures manual can be evaluated and approved by ARB on a case-by-case basis.

- (C) The district shall specify the length of time for which the waiver is valid. The waiver will not exempt the participant from any contract requirement to provide annual usage reports.
  - (D) The waiver must be documented in writing, signed by the Air Pollution Control Officer, and be included in the project files. Appropriate notations to indicate that a waiver has been granted shall also be included in the "comments" field of the CARL database for each relevant project, if applicable.
- (5) Recalculate a project's cost-effectiveness based on the reported decrease in usage. Based on this recalculation, if the project is still below the cost-effectiveness cap, consistent with the cap in effect on the date of contract execution and prior to the end of the contract, the district shall continue to monitor the project over the next year to determine if additional actions are necessary. A waiver is not required in this event.
- (e) A district shall describe its procedures for dealing with nonperforming grantees in its Policies and Procedures Manual.

**(Section Unassigned) The Rural District Assistance Program (RAP)**

- (a) The Rural District Assistance Program (RAP) allows rural districts to pool their project funds in order to streamline program administration.
- (b) Funds dedicated to RAP are pooled to fund project grants from a statewide list of rural district projects. The RAP administrator is selected by the California Air Pollution Control Officer's Association (CAPCOA). The RAP administrator solicits projects, conducts initial project application review and ranking, and informs districts of available projects for which they may apply. Projects are assigned to recipient districts prior to contract execution. Recipient districts have the authority to refuse or accept projects offered through RAP within a pre-set period.

- (c) A district whose annual Carl Moyer Program (CMP) grant application dedicates the entire annual grant to RAP is not required to have a current approved Carl Moyer Program Policy and Procedure Manual, but the grant application must include a board resolution or minute order. Districts dedicating their entire grant are not obligated to submit a yearly report for the associated grant.
- (d) A District may dedicate funds to RAP after it has executed an annual grant with ARB, but must do so by March 1<sup>st</sup> prior to the end of the grant funding cycle, per the following example timeline:

RAP Example - CMP Year 13 (Fiscal Year 2010-11)

District executes Year 13 Grant Award

Funds may be dedicated to RAP

March 1, 2013                      Deadline to dedicate funds to RAP

June 30, 2013                  Deadline to expend Year 13 Grant Award

- (e) A district receiving RAP projects and funds must have a current approved Carl Moyer Program Policy and Procedures manual. Following project acceptance, the district is fully responsible for all grant obligations, including eligibility verification, contract draft and execution, inspections, monitoring and reporting.

**(Section Unassigned) The Carl Moyer Program Clean Air Reporting Log (CARL)**

- (a) The Carl Moyer Program Clean Air Reporting Log (CARL) is a web-based database system used by districts and ARB. CARL tracks, analyzes, and reports on projects funded through the Carl Moyer Program and other associated incentive programs. CARL also tracks administrative information about critical project dates and fiscal information such as funding source and payment data.
- (b) CARL calculates project emission reductions and cost-effectiveness based upon user inputs and the factors, formulas, and program requirements. CARL does not determine whether a project is eligible for Moyer funding. If there is a question whether a project is eligible, it is district staff's responsibility to work with ARB staff to ensure the project is correctly analyzed.
- (c) CARL tracks all funds subject to the Carl Moyer Program Guidelines, including funds available pursuant to the Smog Check and tire fees, \$2 DMV funds, interest, and district match funds.
- (d) CARL production website is: <http://www.arb.ca.gov/app/cmp/>.

CARL training website is: <http://www.arb.ca.gov/app/cmp/training/>.  
All training site data will be periodically deleted from the training database.

CARL User's manual is available at:  
<http://www.arb.ca.gov/app/cmp/CARL20manual.pdf>.

- (e) CARL has an import function that is available for districts that use other applications for their primary data recording. The import function requires a specific format for data organization so that data may be transferred directly into CARL for required reporting purposes. The Import User's Guide is available at: [http://www.arb.ca.gov/app/cmp/CARL\\_Import\\_Users\\_Guide\\_Draft\\_rev9.pdf](http://www.arb.ca.gov/app/cmp/CARL_Import_Users_Guide_Draft_rev9.pdf).
- (f) CARL allows users to generate many types of reports on applicants, projects, equipment, and administrative data. Report functions are accessible on the front page (the "splash page") of CARL production and training websites.
- (g) Access to CARL is limited to air district staff, ARB Carl Moyer Program staff, and ARB Information Technology staff directly involved in developing CARL. Each air district has the ability to view, input, and edit project information relating to their air district only. For database support, including a CARL username and password, send an E-Mail request to: [carlhelp@arb.ca.gov](mailto:carlhelp@arb.ca.gov)